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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,106	01/25/2002	Kazuyuki Tsuda	JP20000394US1	9452
25259	7590	02/18/2010		
IBM CORPORATION 3039 CORNWALLIS RD. DEPT. T81 / B503, PO BOX 12195 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER BOSWELL, BETH V	
			ART UNIT 3623	PAPER NUMBER
			NOTIFICATION DATE 02/18/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* KAZUYUKI TSUDA, HIROYASU OHSAKI,  
and RYOICHI YOSHIMURA

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Application No. 10/056,106  
Technology Center 3600

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Mailed: February 17, 2010

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Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received by the Board of Patent Appeals and Interferences on February 10, 2010. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

### REQUEST TO REOPEN PROSECUTION

On February 9, 2009, Appellant filed a request to Reopen Prosecution based on the New Grounds of Rejection in the Examiner's Answer.

Under MPEP 1207.03, Appellant must either file a reply brief addressing each new ground of rejection or file a reply in compliance with 37 CFR 1.111 to request prosecution be reopened. The reply must be filed within two months from the date of the examiner's answer to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new grounds of rejection. *See Manual of Patent Examining Procedure* (MPEP) § 1207.03 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Because the Appellant timely filed a request to reopen prosecution, prosecution is reopened and the appeal is withdrawn. The application is returned to the Examiner to address the request.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) address Appellant's request to reopen prosecution; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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